

CITY OF BALTIMORE

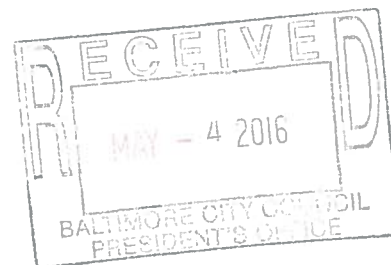
STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

May 4, 2016



The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 16-0622 – Repeal of Ordinance 02-299 – Flag House
Court Hope VI Planned Unit Development

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 16-0622 for form and legal sufficiency. The bill repeals Ordinance 02-299, which designated certain properties as a Residential Planned Unit Development known as Flag House Court Hope VI Planned Unit Development. The bill has an immediate effective date.

The Law Department notes that upon repeal of the PUD, the uses and structures in the affected area, in some instances, may be considered non-conforming uses. The legal disposition of non-conforming uses and structures are regulated by Article 13 of the Baltimore City Zoning Code. The Article places restrictions on changes in the uses and structures designated as non-conforming. Parties are encouraged to review the Article to determine the legal constraints on property development following the repeal of the PUD.

The Staff Report from the Planning Department indicates that it will offer an amendment to the bill that discusses the above issue. The proposed amendment would say that any structures or uses that were lawfully existing and properly permitted under the provisions of the PUD are allowed to lawfully exist upon repeal of the PUD. The Law Department, however, will not approve the amendment. Article 13 contains various limitations on the improvement or development of non-conforming uses and structures, which are not treated in the proposed amendment. More to the point, an amendment to Council Bill 16-0622 cannot alter the regulation of non-conforming uses and structures – only an amendment to the zoning code can effectuate a lawful regulatory change.

There are no legal impediments to the passage of this bill as drafted. Assuming that the Planning Department's proposed amendment to the bill is rejected, the Law Department will approve Council Bill 16-0622.

Fav w/ comments



Sincerely,

A handwritten signature in blue ink, appearing to read "Victor K. Tervala".

Victor K. Tervala
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief, General Counsel Division
Hilary Ruley, Chief Solicitor
Jennifer Landis, Assistant Solicitor